The Difference States Make: Democracy, Identity, and the American City

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Most contemporary theorizing that addresses questions of democracy and difference is framed by broadly constructivist claims. Yet when it comes to thinking about democratic state intervention into social relations of difference, political theorists tend to stress reactive strategies, overlooking the role that democratic states play in helping shape and reinforce social definitions of difference. Exploring the case of the construction of racialized difference in the American city, the author makes the case that arguments for tolerating, for recognizing, and for deliberating across extant differences are insufficiently attentive to the role states play in making difference. Institutional efforts to deal with difference democratically should target the points at which it gets produced, aiming not simply to modify the effects of social definitions of identity and difference—but to democratize the processes through which these are defined and redefined.

In Detroit, beginning in the late 1930s, the Federal Housing Administration (FHA) refused to insure mortgages for any of the houses in two particular neighborhoods. It had identified one as predominantly black and the other as predominantly white. The problem in each community, by the FHA's view, was the proximity of "inharmonious" racial groups. The neighborhoods were adjacent to each other, and the FHA—as it stated unequivocally in the first two editions of its *Underwriting Manual*[1]—equated the stability of residential communities, and consequently of their property values, with race-based segregation and racial homogeneity.

In 1941, a real estate developer came into the area and constructed a concrete barrier that divided the black from the white section. The FHA promptly altered its stance. It began to insure mortgages in this area of Detroit, although only on the white-dominated side of the wall (Jackson 1985, 209).

This episode was not an anomaly. Through its insurance, housing, transportation, and other public policies, the American state has played a crucial role in constructing and maintaining racial differences and racial hierarchies. Nor is the episode merely of historical interest. On the contrary, the central argument advanced in the present essay is that political theorists—indeed, all political scientists who are concerned with problems of democracy and difference—should direct our attention toward just this type of difference-defining state action.

The question that motivates the essay is, "How should democrats treat difference?" How, that is, might a polity deal with social differences in ways that promote, rather than undermine, key democratic norms, such as collective self-determination and political equality and inclusiveness? Most contemporary theorizing that addresses this question is framed by claims that social identities and differences are constructed, fluid, multiple, and overlapping. But in the pages that follow, I make the case that when it comes to thinking about state intervention into problems of identity and difference, the responses that dominate our debates stand in tension with this explicitly constructivist stance. Whether the emphasis is tolerating difference, affirmatively recognizing difference, or encouraging citizens to deliberate across extant forms of difference, most contemporary political theory implies that states might react to social differences without significantly shaping and helping to constitute them.

I argue, to the contrary, that states play a critical role in constructing social identities and differences. They help define, institutionalize, and order the categories and the relations that produce and maintain identity\difference.[2] Institutional efforts to deal with difference democratically need to target the points at which it gets produced. Our aim should be, not simply to modify the effects of extant definitions of identity and difference, but to democratize the processes through which these are defined and redefined. This approach requires restructuring the political institutions and the political processes through which states make difference.

I advance this argument by situating it in a particular political context: the twenty-first century American

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[1] The first editions were published in 1938 and 1947. See footnote 17.

[2] I borrow this phrase from Connolly (1991). I understand the backslash to underscore that definitions of identity and difference occupy the same social space. They are mutually constitutive, mutually implicating. By this view, "identity" and "difference" mark, not substances or qualities that emanate from within human selves, but relations that social beings determine with reference to norms that sort actors and actions in ways that are often asymmetrical and in ways that create ambiguities in the form of that which does not fit. The *different* are those groups, those individuals, those parts of the self constructed into marginalized categories or constructed out of social categories altogether.

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city, chosen because it brings to the fore both the potentialities and the problems posed by relations of identity and difference. In cities, people interact with, and they shape the possible actions of, others with whom they are not friends or close relations; with whom they do not share racial, ethnic, or other deeply constitutive identities; with whom they form neither a community of value nor a community of interest: in short, with strangers. Jane Jacobs famously argued that this "being together of strangers" (Young 1990, 237) has the potential to foster "a feeling for the public identity of people, a web of public respect and trust, and a resource in time of personal or neighborhood need" (Jacobs [1961] 1992, 56). Yet it is an asset grievously threatened when urban identities and differences are mapped in ways that at once define relations of privilege and deprivation and foster a subjective sense of social distancing among interdependent persons and groups (Bickford 2000). I focus, in particular, on racialized identities and differences, because these push the theorist to engage the role that the democratic state plays, not simply in responding to extant social differences, but in making, re-making, and reinforcing relations of identity\difference.

TOLERATING DIFFERENCE

How should democratic state actors and democratic state institutions address problems posed by relations of identity and difference?

Democratic states should tolerate difference, some suggest, both by promoting toleration as a social practice and by finding ways to institutionalize it politically, that is, by finding ways to institutionalize governmental noninterference with some set or range of actions and practices. Tolerating difference means "allow[ing it] to exist . . . without authoritative interference." It means "pemit[ting]," "suffer[ing]," "put[ting] up with" (*Oxford English Dictionary* [*OED*] 1989) persons, groups, ways of life, beliefs, and communal practices that the majority in a given polity experiences as strange. Toleration is a matter of "making room" for those who are socially defined as different (Walzer 1997, 10–11). In classic liberal accounts, its defense depends upon the delineation of a restricted political sphere outside of which the state cannot legitimately interfere, except in cases in which practices generally defined as extra-political cause harm to others (Locke [1689] 1955; Mill [1859] 1978).[3] Religious beliefs and most religious practices, by this view, fall into the extrapolitical sphere. Contemporary versions of the liberal argument for toleration include in this category, more generally, the beliefs and practices constitutive of controversial philosophical and moral systems of belief and value (Rawls 1985, 1993).

Why might democrats value toleration? Why do some make a case for democratic state toleration of (some forms of) difference? As Bernard Williams notes, this is a question the answer to which is not immediately apparent. "The difficulty with toleration," he writes, "is that it seems to be at once necessary and impossible": impossible in the sense that the circumstances that motivate calls for toleration—circumstances in which "people find others' beliefs or ways of life deeply unacceptable"—also make it difficult to achieve (Williams 1996). Why should a state "put up with," why should it deliberately refrain from interfering with actions, beliefs, and practices many view as "deeply unacceptable"? The reason offered by early modern defenders of toleration—a reason still urgently relevant in much of the contemporary world—is pragmatic: As a social and political practice, it can enable nonviolent forms of coexistence among those who are strange in the sense that they experience themselves as not sharing identity-constituting beliefs, values, practices, and traditions. Beyond the pragmatic, there are additional democratic grounds on which one might support state policies and political and social practices of tolerating difference. Toleration respects autonomy, which by accounts as otherwise divergent as Robert Dahl's[4] and Jürgen Habermas's[5] grounds democratic norms of self-government and political equality. What is more, toleration can promote a degree of self-determination for minority groups within culturally pluralistic polities, an important component of legitimate democratic governance by the views of some communitarian theorists (Kymlicka 1989, 1995; Walzer 1997). Arguments for toleration, then, when not purely pragmatic, often rely on appeals to other values, some of which, including respect for autonomy and cultural diversity, play an important role in recent democratic theory.[6]

[3] For a critical treatment of the delineation of the political sphere, see McClure 1990. For a discussion of ambiguities inherent in Mill's harm principle, see Horton 1985.

[4] For Dahl, the "Presumption of Personal Autonomy," i.e., the presumption that "[i]n the absence of a compelling showing to the contrary everyone should be assumed to be the best judge of his or her own interests," together with the "Principle of Equal Consideration of Interests" grounds the democratic "Strong Principle of Equality," i.e., the principle that

> . . . *every adult member* of an association is sufficiently well qualified, taken all around, to participate in making binding collective decisions that affect his or her good interests, that is, to be a *full citizen* of the demos. More specifically, when binding decisions are made, the claims of each citizen as to the laws, rules, policies, etc. to be adopted must be counted as valid and equally valid. Moreover, no adult members are so definitely better qualified than the others that they should be entrusted with making binding collective decisions. More specifically, when binding decisions are made, no citizens' claims as to the laws, rules, and policies to be adopted are to be counted as superior to the claims of any other citizen (Dahl 1989, 100, 105, original emphasis).

[5] A positive valuation of autonomy undergirds Habermas's, as well as most deliberative democrats', claims that a collective norm is democratically legitimate only if and to the extent that its articulation is the product of the *agreement* of all affected as the result of a free, equal, and public exchange of reasons. See the discussion under Deliberating Across Difference, below.

[6] The value of toleration can be grounded, as well, in skepticism about the existence of any belief or practice that is true or right, and knowably so. See Galeotti 1993, Heyd 1996, and Williams 1996.

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There are important limits, however, to what toleration can accomplish.[7] In a case like that of the city—i.e., in a case in which strangers lead lives that involve both mutual dependence and mutual influence—noninterference is not necessarily benign. In particular, in cases in which plural identities are defined in the context of relatively enduring power asymmetries, "making room" for the stranger can go hand in hand with politically silencing or excluding her. It can go hand in hand with denying her access to the resources and the opportunities attached to full membership in a political society, since to tolerate the stranger is not necessarily to view her human and social needs as needs the polity should meet collectively.

Normative arguments in favor of state toleration as the principal or the unique solution to problems posed by relations of identity\difference are particularly unsatisfying in cases in which the state itself plays a significant role in shaping those relations. Toleration is a decidedly reactive answer to questions of identity\difference; it recommends state action and inaction *in response to* extant forms of social difference. By definition, it fails to attend to—indeed it deflects attention away from—the role states play in making, remaking, and reinforcing social definitions of identity\difference.

But states do make difference. They help define national identities and differences, for instance, through citizenship and family laws (Stevens 1999). They help define trans- and subnational identities and differences, as well, both indirectly, by shaping the legal context in which non-state agents act, and via direct legal and policy intervention.

A case in point is the set of identities and differences constructed around race in the contemporary American city. As is well known, nothing natural or inevitable grounds either extant racial categories or their extant ordering. Barbara Jean Fields (1990), among others, has helped draw critical attention to the constructedness of race by tracing its historic origins. Clearly, if race is neither natural nor inevitable, it takes work to maintain it. Race cannot be made only once, that is to say, but needs to be made again and again: "ritually reproduced" in Fields's words (100). State actors, I want to underscore, play a decisive role in enabling that ritual reproduction. They do so perhaps most apparently by institutionalizing race in legal norms, such as racial census categories. They do so as well, and particularly effectively, by mapping race—by lending geographic facticity to social definitions of racial sameness and otherness—and by overlaying racial "mappings" with material inequalities that help define and secure race-based group divisions.

Consider the all-too-familiar characterization of particular urban areas as comprising the "black sections" of a given city. To perceive a place as "black" (or as "white") is necessarily to experience black-ness (or white-ness) as a social fact. In the U.S., state actors have played a key role in making possible this experience. State actors helped forge the black American ghetto[8] through the legal institution of racial zoning during the early part of the twentieth century,[9] then through the enforcement of racially restrictive covenants,[10] and, finally, through zoning laws that, although not explicitly racially targeted, function to maintain established patterns of racial segregation.[11] Constructing racialized places in which its citizens live and work—in which they experience the social world and develop their interpretations of it—the state has been instrumental in racializing the processes through which people perceive their relations with others and form their social identities.

Thus in the American city, the state-sponsored racialization of place lends durability to racial identity categories by institutionalizing them, not only in law, but also in built forms and in ordered spaces. The state is active, what is more, in defining material inequalities that create relations of privilege and deprivation along these racialized urban boundaries, and that have the effect of localizing collective problems on the "other" side of those boundaries. State actors have played a critical role in subjecting the black American ghetto to systematic disinvestment, for instance, through the Home

[7] This is particularly the case when what is being tolerated is not a set of beliefs and practices, but a socially constructed identity. For a thoroughgoing critique of toleration as a response to problems of social identity and difference, distinct from yet not incompatible with the critique presented here, see Brown 2001.

[8] I deliberately use the term "ghetto," rather than the more euphemistic "inner city" to stress both the involuntary and the racialized character of American urban segregation. A ghetto, according to Loïc Wacquant (1994, 236) is "a bounded, racially and/or culturally uniform sociospatial formation based on the forcible relegation of a negatively typed population . . . to a reserved territory in which this population develops a set of specific institutions that operate both as a functional substitute for, and as a protective buffer from, the dominant institutions of the encompassing society." African-Americans are the group in U.S. history to have been ghettoized most thoroughly and most systematically. They remain the only "hypersegregated" group in major American cities, that is, the only group segregated along five mutually reinforcing dimensions: unevenness, or overrepresentation in some, and underrepresentation in other areas; isolation, or infrequency of contact with non-group members; clustering of group neighborhoods near each other; concentration of these neighborhoods in small areas, producing a high population density; and centralization around an urban core. In 1980, predominantly black neighborhoods in 16 major metropolitan areas of 30 analyzed were hypersegregated. See Massey and Denton 1993, 74–78. Analyzing 1990 census data, Denton found that hypersegregation grew during the 1980s. Fifteen new metropolitan areas—at least five of which were not hypersegregated in 1980—could be classified as hypersegregated in 1990. See Denton 1994. It is important to note that black American residential segregation is unchosen, and it is irreducible to, although compounded by, class segregation. See Massey and Denton 1993, 84–96.

[9] Starting in Baltimore in 1910, and up until 1917, when the U.S. Supreme Court ruled racial zoning in violation of the Fourteenth Amendment (*Buchanan v. Warley*, 245 U.S. 60), Atlanta, St. Louis, Dallas, Louisville, and a host of other American cities responded to the migration of southern black agricultural workers to industrial centers by passing zoning laws aimed specifically at segregating and isolating blacks.

[10] A 1928 study of 84 American subdivisions for the relatively wealthy showed that about half were governed by deed restrictions that specifically prohibited the sale of property to minorities (Monchow 1928, cited in McKenzie 1994).

[11] Such as laws specifying minimum lot sizes and/or minimum setback requirements and prohibitions on apartments and other multifamily dwellings. See footnote 20.

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Owners Loan Corporation (HOLC) and the Federal Housing Administration (FHA) and Veterans Administration (VA) programs, which channeled investment to the suburbs, away from urban areas, and in particular to suburban whites, away from African-Americans and other minorities.[12] Combined with biases built into the federal tax code[13] and widespread discrimination in housing and lending—itself enabled by limited state enforcement of fair housing and lending legislation[14]—state-sponsored racial ghettoization and urban disinvestment has had the predictable effect of concentrating in predominantly African-American residential urban neighborhoods unemployment, underemployment, and relatively insecure, low-wage employment;[15] poverty;[16] and social problems statistically associated with concentrated poverty, such as victimization by violent crime.[17] The distributive inequalities that result from these and similar state actions not only produce race-based hierarchies of economic privilege and power, but further—by removing poverty and poverty-related social problems to the ghettos that the state itself helped create—encourage the racialization of social understandings of collective interests.

Even as state actors worked, and continue to work, to localize collective problems in African-American ghettos, they helped reduce, often minimize, contact across the lines of identity\difference that they mapped. They erected physical boundaries to contact with racialized others, such as highways[18] and high-rise housing projects.[19] They erected legal boundaries, as well, perhaps most significantly land-use restrictions and the political boundaries that define distinct

[12] The HOLC effectively nationalized the practice of redlining, via its Residential Security Maps, which outlined in the color red—signaling the highest possible investment risk rating and marking as an unsound investment—neighborhoods characterized by mixed primary uses, high population density, relatively old building stock, and minority, especially black, residents. It redlined, that is, the older urban neighborhoods into which black Americans were ghettoized. That the latter characteristic (minority and, especially, black population) was particularly weighty in HOLC ratings is illustrated by the case of the Lincoln Terrace neighborhood in St. Louis, which in 1937 the HOLC rated in the lowest (red) category even though the area was comprised of relatively new buildings in good condition. According to HOLC reasoning, property in Lincoln Terrace had "little or no value [in 1937], having suffered a tremendous decline in values due to the colored element now controlling the district" (Jackson 1985, 200). The FHA, for its part, actively promoted the racially discriminatory practices that dominated the real estate industry, including the use of racially restrictive covenants. In its 1938 *Underwriting Manual,* it advised that neighborhood ratings should reflect the presence of "Adverse Influences," including "incompatible racial and social groups," and specifically recommended the use of racially restrictive covenants to promote segregation (quoted in McKenzie 1994, 65). Although with the publication of the 1947 edition of the manual, the agency substituted for explicit references to race, euphemistic references to unspecified "dissimilarity," its discriminatory rating policies remained in effect. Section 1320 of the 1947 manual, for instance, read, "If the occupancy of the neighborhood is changing from one user group to another, or if the areas adjacent to the immediate neighborhood are occupied by a user group dissimilar to the typical occupants of the subject neighborhood or a change in occupancy is imminent or probable any degree of risk is reflected in the rating" (quoted in McKenzie 1994, 66). From the start of the program through the 1960s, African-Americans received less than 2% of FHA-insured mortgages (Squires 1994b).

[13] The federal tax code advantages middle-class and predominantly white and suburban homeowners by allowing income tax deductions for mortgage interest and property taxes but not for rent.

[14] See Dymski and Veitch 1994, Feagin 1994, and Reed 1994. Major housing audit studies in 1979 and 1989 document widespread discrimination against minority home buyers and renters (Turner et al. 1991; Wienk et al. 1979). Mortgage lending audits show that lenders discriminate against black mortgage applicants, as well, and that both mortgage and business loans are more easily obtained in suburban and predominantly white than in urban and predominantly minority areas, even after controlling for relevant factors such as income, condition of housing stock, and rate of neighborhood turnover. See Squires 1994a, 1994b. Noncompliance with fair housing legislation is largely a product of ineffective enforcement. Even after the 1988 Fair Housing Amendment Act, which strengthened the Department of Housing and Urban Development's (HUD) powers of enforcement, investigations are triggered only in response to complaints filed by people who experience discrimination. As critics note, this system grossly undermines effectiveness, given that many commonly employed discriminatory tactics are difficult for private individuals to detect.

[15] Postwar urban deindustrialization resulted in the large-scale loss of manufacturing jobs in cities and the expansion there of low-paying and, for the most part, nonunionized service and clerical jobs (Bluestone 1990; Bluestone and Harrison 1982; Harrison and Bluestone 1988). Between 1963 and 1967, for instance, in the 25 largest American metropolitan areas, manufacturing employment dropped 19% in central cities and grew almost twice that—36%—in the suburbs. Wholesale and retail employment declined in cities during this period, as well, and more than doubled in suburbs (Logan and Molotch 1987, 183–84). For a detailed account of the race-based "geography of opportunity" in Atlanta during the 1980s, see Orfield and Ashkinaze 1991, 68. Although the city as a whole experienced growth during the 1980s, its blacks residents did not gain economically. Most African-Americans in Atlanta and its suburbs live in segregated neighborhoods, and Orfield and Ashkinaze find a close correspondence between racial residential segregation and differential opportunities for schooling and work. In Atlanta in the 1980s, they report, "merely knowing the racial composition of an area was enough to predict many other vital aspects of local conditions with dismaying accuracy" (Orfield and Ashkinaze 1991, 17).

[16] In 1998, the poverty rate in central cities in the United States was more than double that outside central cities, while the rate for blacks was more than three times that for whites (United States Bureau of the Census 1999).

[17] Between 1987 and 1992, urban residents were, on average, 58% more likely than suburban residents to be victims of violent crime, while African-Americans were 47% more likely to be violent crime victims than were whites (United States Department of Justice 1994).

[18] Large-scale highway construction began in the early part of the twentieth century, supported by state funds and also by the federal government. It received a tremendous boost with the passage in 1956 of the Interstate Highway Act, which ultimately resulted in the construction of 42,500 miles of interstate highway, 90% of which was financed by the federal government (Jackson 1985, 167, 249). American cities typically sited interstate highways strategically, in ways that buffered from core urban areas the downtown and other neighborhoods in which they invested. In the process they displaced, often without compensating, significant numbers of low-income and predominantly minority central city residents (Mollenkopf 1983, 121). Bernard Frieden and Lynne Sagalyn (1989, 29) quote then-Attorney General Miles Lord, who in the 1950s oversaw interstate planning in Minnesota, a state with a relatively small black population. Lord recalls, "We went through the black section between Minneapolis and St. Paul, about four blocks wide and we took out the home of every black man in that city. And woman and child." Massive state support for highway construction contrasted markedly with dismally low levels of investment in public transportation. The result is what Douglas Rae (1999) calls a "viacratic hierarchy" that differentially enables members of dominant and marginalized groups to access key urban spaces.

[19] Urban renewal policies played an important role in reinforcing group-based spatial differentiation. See Frieden and Sagalyn 1989 and Halpern 1995.

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municipalities, which together function to exclude urban "others" from processes of determining laws that profoundly affect them.[20] In these and other ways,[21] state actors not only have helped produce and maintain racialized difference. They further have transformed that difference from mere strangeness to foreignness, ensuring that the privileged need not face, nor hear, nor engage politically those defined as their racial others.

They have enabled, that is to say, a kind of political refusal fully consistent with "letting [the stranger] be."

RECOGNIZING DIFFERENCE

In light of these limits to what toleration can accomplish, recent calls for recognizing social group difference might seem promising. Recognizing difference requires, not social noninterference and state neutrality, but rather the affirmative and public acknowledgment of, as well as state support for, (some forms of) collective identity. In Michael Walzer's (1994, 99) terms, as opposed to a liberalism that demands that states remain neutral with respect to diverse conceptions of the good, the liberalism informing calls for recognition allows that states legitimately may take measures to protect particular cultures, as long as they simultaneously secure all citizens' basic rights.

Although different versions of the call for recognition recommend different forms of political organization, on the whole, the politics of recognition depart from the politics of toleration in marked ways. Some proponents recommend special treatment for minorities in public institutions.[22] Some recommend group-specific forms of political representation, even group veto power in instances in which group interests are significantly affected by a potential decision.[23] Some recommend broader and relatively enduring powers of self-government for "national minorities" (Kymlicka 1995). In short, recognition commands not merely "suffering," not merely "putting up with," but actively and publicly acknowledging and supporting gendered, racial, ethnic, national, and other forms of difference.

Why might democrats recommend state recognition as a strategy for dealing with difference? Charles Taylor (1994) argues in favor of a politics of recognition on the grounds that it can help preserve what he claims are—or what, upon careful examination, might prove to be—objectively valuable cultures. Others advance arguments for recognition on grounds that are more recognizably democratic. Some claim that a vital self-identity is dependent upon a socially recognized and valued collective identity. Misrecognition, by this view, can undermine citizens' capacities to live fulfilling lives and to participate as full and equal members of their societies (Habermas 1994; Honneth 1992, 1995). Some argue that, in the context of cultural pluralism and social stratification, recognition is needed to ensure the fair representation of the perspectives and the interests of members of oppressed groups (Young 1989, 1990). Others suggest that cultures merit public support and protection because they are the necessary context for the development and exercise of autonomy, which, as noted above, grounds a range of philosophical defenses of democratic self-governance (Kymlicka 1989, 1995). The impulse uniting these diverse positions is summed up nicely by Elizabeth Kiss's (1999) claim that "[a] society is not truly democratic if it imposes on some of its members, as the price of admission to equal protection and status, the requirement that they deny or hide a deeply felt identity" (98).[24]

But is recognition, by itself, an adequate form of democratic state intervention into relations of identity\difference? To answer this question, it might be instructive to return to the example introduced above (an example largely neglected by most proponents of the politics of recognition) and to consider what likely would be accomplished by democratic state recognition of American racial differences. What would be accomplished, that is to say, if—after mapping white\black identities and differences, after overlaying racial distinctions with material inequalities—American state actors were then to take steps to recognize African-Americans?

Affirmative acknowledgment of and support for black American traditions and achievements, although no doubt valuable in some instances for the very reasons advanced by proponents of the politics of recognition, by themselves would fail to challenge those forms of social differentiation that are rooted not only and not most basically in a sense of the relative value of various "cultures" and their products, but in laws and other public institutions, in spatial forms, in architectural constructions that lend a significant material dimension to the ways in which identity\difference is defined. Nancy Fraser has argued persuasively that, although analytically distinct, in practice, the material and the cultural dimensions of injustice are often deeply imbricated. Redressing injuries along one dimension,

[20] In 1916, New York City adopted the first comprehensive zoning law. In 1923, the federal government passed the Standard Zoning Enabling Act, a model adopted by more than half of U.S. states by the mid-1920s. By 1936, 85% of all American cities engaged in zoning. Land use restrictions (for example, prohibitions against the construction of apartments and other multifamily dwellings and specifications of minimum lot sizes and set backs) function to layer atop urban racial apartheid class-based residential segregation. See Jackson 1985 and Frug 1999.

[21] The barricading of sections of low-income urban neighborhoods by police, for instance, the construction of elaborately secured parking structures designed to eliminate contact between corporate workers and central city residents, and the use of sprinkler systems to discourage the homeless from sleeping in parks and other public spaces. See Davis 1990, ch. 4, and Bickford 2000.

[22] In the case of the proposed Meech amendment to the Canadian constitution, for instance, some recommend permitting Quebec to restrict English language education in public schools, a restriction that judicial interpretation of the Canadian Charter of Rights does not allow for the larger society.

[23] Thus Iris Young (1990, 183–91) suggests that Native Americans be granted such power over decisions affecting reservations, and women over decisions affecting reproductive rights.

[24] Kiss modifies this claim by adding, "... unless expression of that identity is itself incompatible with democratic equality."

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Fraser (1995a, 1995b, 1997) suggests, can have the perverse effect of exacerbating injuries along the other.[25] If the argument advanced in section one is correct—if the state helps make race partly by institutionalizing race in place, partly by defining material inequalities that reinscribe racialized place boundaries—then the identitarian and the material dimensions of (in)justice are imbricated, further, in that spatial forms and material inequalities can function as *mechanisms for* the making and the remaking of difference.[26] Hence for the state simply to "recognize" racial difference—to "take notice of" it, "to treat [it] as valid, as having existence," "to admit [it] to consideration . . . as being something" (*OED* 1989)—would be for it to "know again" the very racial identities it helps produce and maintain. State affirmation of constructed racial identities, absent significant changes to the ways the state maps these identities and materially inscribes them, can serve to naturalize, and hence to stabilize, racialized identity\difference.

What is more, absent significant challenges to state-sponsored race-making, the various institutional reforms advocated by proponents of the politics of recognition are unlikely substantially to alter extant racial hierarchies. To empower black urban residents with rights to self-government—a process that, as Will Kymlicka (1995, 27–30) notes, involves the devolution of authority to localities in which minorities are territorially concentrated—would fail to enable them to address urgent problems generated *across* municipal boundaries, such as limited opportunities for work and schooling, an insufficient stock of affordable housing, and the lack of physical safety and security that plagues many urban neighborhoods. Nor are group veto power or representation rights unambiguous means to grappling with problems such as these: that is, problems generated beyond, but most intensely experienced within city boundaries. Due to the forms of mutual influence and the interdependencies characteristic of city life, multiple social collectivities defined as "different" from dominant groups—multiple collectivities the members of which often experience their interests as divergent, even conflicting—are affected by many, if not most, potential decisions. Hence, to recommend that veto power be accorded representatives of significantly affected "oppressed groups" (Young 1990, ch. 2) is arbitrarily to favor the status quo. And group-based representation, although it might place otherwise unrecognized needs and interests on the agendas of legislative and other bodies authorized to address them, would do little to redress the forms of social distancing that undermine the sense of mutual obligation needed to motivate collective efforts to respond to the problems of racialized "others." Indeed, as others have noted (e.g., Fraser 1995a, 1995b, 1997), this form of recognition necessarily reinforces extant definitions of identity\difference by codifying them in law.

More generally, calls for state recognition of social difference are, not unlike calls for toleration, reactive; they imply that the challenge for the democratic state is to respond to those differences it innocently happens upon. Recognition theorists' near-exclusive focus on what they term "cultural groups"—that is, their emphasis on collective efforts to reproduce across generations valued linguistic, religious, and other social practices, combined with their "groupist social ontology" (Brubaker and Cooper 2000, 31)—deflects attention from the political processes through which identity\difference categories are defined, institutionalized, and ordered.

DELIBERATING ACROSS DIFFERENCE

It is, in part, a dissatisfaction with politics that tend to reify and to indurate identity-based divisions that drives calls, not to affirm and to support difference, so much as to engage it in reasoned deliberation. Drawing on Arendt ([1962] 1990), as well as on recent work by Rawls (1993) and Habermas (1984, 1989, 1990, 1993, 1996, 1998), deliberative democrats make the case for reasoning across difference with a view to bridging it, achieving mutual understanding where once value- and interest-based divisions reigned. Legitimate democratic politics, by this view, take the form of communicative exchanges that are at once reasoned, free, egalitarian, inclusive, and public.[27]

Proponents of this view offer a range of reasons why democrats should deal with difference deliberatively. Deliberation, some suggest, by fostering an active and respectful engagement with difference, can enable interlocutors to recognize the partiality of their own perspectives and their situatedness within larger social relations and contexts (Young 1996, 2000). Deliberation is likely, some claim, to produce political outcomes objectively better than those that result from nondeliberative processes: decisions shaped by authentic, rather than distorted interests (Sunstein 1988) or decisions that approximate "truths concerning justice" (Estlund 1993, 1476). Others emphasize the ways in which deliberation might promote social stability, by eliminating conflict that is merely apparent rather than real, and/or by fostering continued cooperation based on mutual respect, even in the face of ineliminable conflict (e.g., Guttman and Thompson 1996). Specifically democratic arguments stress the ways in which the decisions that result from deliberation embody the consent of those

[25] "Affirmative" remedies to injustices of misrecognition, Fraser's claim is, because they leave intact underlying identity\difference categories, can undermine strategies aimed at correcting other forms of injustice, especially injustices of distribution, e.g., by fueling resentment for the group marked "other."

[26] Here I see my argument as basically in agreement with Leonard Feldman's (2002) claim that theorists should direct our attention toward what Feldman characterizes as specifically political injustices through which state actors use laws and policies to disempower and/or to exclude some citizens. Political injustices, he stresses, are analytically distinguishable from what Fraser thinks about as economic and cultural injustices.

[27] I will not provide a detailed review of the literature on deliberative democracy in this essay, not only because of space limitations, but also because the literature is, by now, quite well-known. Some important statements of normative arguments supporting deliberative democracy are Benhabib 1996, Cohen 1989, Dryzek 1990, Elster 1984, and Manin 1987.

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they bind (Habermas 1990, 1996) and reflect the voice and the contributions of all citizens and/or affected persons (e.g., Bohman 1996).

Thus, faced with the interdependencies and with the forms of mutual influence experienced among strangers in contemporary urban contexts, some democratic theorists would make the case for state institutional reforms that promote the deliberative ideal of a free, equal, and inclusive public give-and-take of reasons, which aims to transcend difference and to achieve mutual understanding. Evidence suggests that, at least some of the time, deliberation can help to increase people's knowledge and understanding of political problems and processes and to foster both understanding and cooperation across lines of difference.[28] On the other hand, some case studies document nontrivial instances of political exclusion, distorted communication, and unequal participation in deliberative processes,[29] and a fairly wide range of social psychological evidence suggests that deliberation in practice can fail to promote, can even undermine, democratic ideals.[30] These disparate findings do not contradict each other so much as speak past one other. It is difficult to adjudicate deliberative theorists' causal claims, because so little systematic empirical work on deliberation has been done.[31]

What seems most likely is that a range of circumstances affects whether and to what extent deliberative processes encourage the democratic negotiation of difference. When states materially inscribe social difference, when states prompt citizens to experience constructed differences as significant and durable features of their social world, when states shape citizens' felt needs in ways that secure identitarian divisions, then deliberation alone is an inadequate democratic state response.

To understand why, imagine two hypothetical pairs of interlocutors and two hypothetical topics of argumentation.

1. A middle-class, childless, white, male professional, who lives in an exclusive suburban municipality on the outskirts of the city in which he works, engages in debate with an unemployed African-American mother of three school-aged children, who lives in a ghettoized residential neighborhood in that same city. The topic is how best to address failure in the city's public schools, and in particular whether metropolitan-wide redistributive policies to help address this problem are in order.
2. A middle-class, white, male, academic philosopher engages in debate with another middle-class, white, male, academic philosopher. The topic is the meaning of social justice.

Clearly, these hypothetical exchanges might differ along an almost-infinite number of dimensions. I want to propose and to highlight just three possible sets of differences, however, in order to make the case that state efforts to respond deliberatively to some relations of identity\difference can fail to advance, perhaps can undermine, democratic aspirations.

First, suppose that the urban interlocutors—let's call them John and Mary—are separated by social inequalities, including inequalities of income, wealth, educational attainment, and occupational status. As critics of deliberative theory have argued (e.g., Fraser 1992; Sanders 1997), social inequalities can translate into deliberative inequalities. Suppose that John, more so than Mary, has access to material resources, to information, and to skills socially necessary for effective participation in public debate. Suppose, further, that the philosophers—let's call them John and Jürgen—are not separated by inequalities that are significant from this deliberative standpoint. In such circumstances, to promote equality within the deliberative setting without eliminating it outside the context of deliberation indeed might render more democratically legitimate the debate between the philosopher, John, and his interlocutor, Jürgen. However, due to material inequalities that are in significant part the product of systematic state disinvestment in the ghetto in which Mary lives, it might fail to reduce, might even exacerbate suburban John's political advantage.[32]

[28] Participants in deliberative polls, for instance, tend to grow more knowledgeable and to change their preferences between pre- and postdeliberative surveys; it seems likely that the deliberative process contributes to these changes (Fishkin and Luskin 1999, 2000; Merkle 1996). What is more, case studies suggest that, at least in some deliberative settings, interlocutors are able to reach agreement across lines of social difference via decision-processes characterized by equality and by mutual respect. See, for instance, David Schlosberg's (1991, 157–60) discussion of the 1991 First National People of Color Environmental Leadership Summit.

[29] Schlosberg (1991, ch. 6) provides examples of failed deliberation as well.

[30] Lynn Sanders (1997), for instance, cites studies that find that social hierarchies shape deliberation in juries and in cooperative problem-solving groups. Members of dominant racial, gendered, and class groups tend to speak more often and longer in these settings, to be more influential, and to take on a disproportionate share of the leadership roles. More recently, Tali Mendelberg (2002), surveying research on communication in small group settings, reports that—*contra* deliberative theory—discussion tends to reinforce the opinion held by the numerical majority; numerical minorities effectively prompt members of majorities to reconsider their perspectives and opinions only under a fairly circumscribed range of conditions (e.g., when they are consistent with each other and when they employ arguments that are "cognitively central," or shared by a large number of their interlocutors); and communicative partners fail consistently to rationally revise their beliefs and opinions in light of arguments and evidence.

[31] Michael Neblo's (2000) research-in-progress is an exception.

[32] Some deliberative democrats have replied to egalitarian critiques along these lines by proposing that deliberative reforms be accompanied by redistributive policies: policies that grant all citizens the resources, including the educational resources, they need to ensure their equal capacity to make effective use of opportunities to deliberate (e.g., Bohman 1996, ch. 3). This proposal, of course, if applied to the case of the American city, amounts to a proposal for a massive redistribution of resources. The claim is no longer that deliberation alone is an adequate democratic state response to problems of identity\difference. Nor is it clear that this response answers fully the egalitarian critique. To the extent that the state institutionalizes difference in a spatial order that defines the very social contexts in which actors acquire their linguistic dispositions, even large-scale resource redistribution may not be enough. Suppose that John and Jürgen inhabit a significantly overlapping set of communicative dispositions, which they share with most members of their audience. Suppose, as

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State-defined material inequalities can affect the extent to which deliberation serves as a democratically inclusive and egalitarian response to problems posed by identity\difference. Interlocutors' understandings of the social world can affect deliberation's democratic potential, as well, by promoting or by inhibiting the specific forms of communicative engagement that make possible mutual understanding across lines of difference. In the American city, recall, the state institutionalizes racial difference in place. It actively helps construct and maintain racialized places in which its citizens live, and in which they develop their social identities and, more generally, their understandings of the social world. Let us assume, then, that although John and Jürgen may be separated by some significant forms of social self-understanding (perhaps they experience themselves as belonging to different national identity groups), they are joined by a felt sense of identification through other collectivities that are central to their lived experience of the social world: collectivities defined, for instance, with reference to profession or political ideology. Suppose, in contrast, that suburban John and Mary's experience of their relation to one another is predominantly one of *not* sharing values, perspectives, beliefs, needs, or interests. In these circumstances, deliberation between the philosophers is significantly more likely than debate between the urban strangers, to find support in the "settled convictions" (Rawls 1985, 288) that deliberative theorists claim help reduce disagreement. It is more likely to find support in the shared values deliberative theorists hope will lend moral judgments both concrete substance and motivational force (Habermas 1990, 109).

Assume, finally, that the exchange between John and Jürgen is sufficiently general, abstract, and "relieved of the pressure of action and experience" (Habermas 1984, 25), that neither party's felt interests are placed on the line. Suppose that the dialogue involving the urban interlocutors, in contrast, centers on a political problem that the state—through its tax laws, its definition of municipal and school district boundaries, and its constitutional interpretations of federal, state, and local governments' roles in providing public education[33]—has defined such that both parties experience it as significantly affecting their interests, and in ways that are mutually conflicting. Although it is not inconceivable that the latter exchange might help uncover previously unrecognized common ground, it seems at least as likely that it will end with the need to make a decision, absent agreement. John and Jürgen, separated by philosophical differences that they need not resolve, can approximate an ideal of "deliberative disagreement" (Guttman and Thompson 1996), engaging indefinitely in argumentative exchanges characterized by careful attention to, and respect for, each other's positions. John and Mary, on the contrary, are likely to find their dispute resolved, absent consensus, by a collective decision the legitimacy of which cannot be judged by purely deliberative criteria (Mansbridge 1996).

To avoid misunderstanding, I do not mean to suggest that the deliberative obstacles facing Mary and suburban John are insurmountable. If state actors construct and maintain an African-American ghetto, if they systematically subject that ghetto to disinvestment over the course of a century, and if they then bring ghettoized black citizens together to deliberate with their white neighbors, it is not inconceivable that interlocutors occupying John's and Mary's social positions might overcome state-imposed impediments to achieving mutual understanding. But it seems unwise to bank on it. Critics of deliberative theory have argued that many of its best-known proponents conceptualize difference in ways that are "overly cerebral" (Phillips 1996): as "worldviews," "definitions of the good," or "conceptions of justice." These cerebral understandings of difference, it is worth stressing, they contextualize within a supposed deeper "overlapping consensus" (Rawls 1993, 133–72) about values, and domesticate with visions of liberal "forms of life" that "meet . . . halfway" (Habermas 1990, 109) the consensual norms reasoned dialogue is hoped to yield.

But when difference is less a matter of incorporeal beliefs and values, and more a set of relations that the democratic state has institutionalized in place, in law, in material structures, then for the state to deal with difference democratically requires more than a deliberative response. It requires critical attention to, and action directed at, the institutions and the processes that shape the ways social actors define and maintain identity\difference.

MAKING DIFFERENCE DIFFERENTLY

In the first three sections of this essay, I made the case that democratic theorists concerned with relations of identity\difference miss something important when we focus exclusively on questions about how states should respond to the differences social boundaries create. In the remaining pages, I want to sketch what seems to me a more promising approach, one that attends not only to questions of how states should treat extant relations of identity\difference, but also to questions about how states make difference and how they might make difference differently. Through what political processes, that is to say, do states define and maintain the boundaries that make social differences (where boundaries mean not only material structures, but also legal and other norms, including state laws and policies and public institutional rules and guidelines)? How might states restructure those processes in ways that promote, rather

well, that the dispositions John and Mary bring to the deliberative table vary significantly as a result of their differential social locations and that John's, more so than Mary's, conform to dominant social norms. In such a case, to bar from John and Jürgen's exchange all forms of force other than the "force of the better argument" indeed might help it approximate a deliberative democratic ideal. However, as suggested by some Bourdieuian critics of deliberative theory (e.g., Fraser 1992, Kohn 2000, and Young 1996), in the context of the social relations of power that differentially position the urban interlocutors, the very assumption that to bar evident forms of force produces a free argumentative exchange itself can further listeners' unconscious privileging of John's over Mary's forms and styles of speech.

[33] For an account of the American state's role in localizing educational and other social problems in ghettoized urban schools, see Hayward 2000, 59–63.

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than undermine, democratic principles of politically egalitarian and inclusive norm-making?

I argued in the first section that mutually reinforcing and relatively impermeable boundaries in the contemporary city make and remake difference in ways that racialize the places social actors inhabit, localize problems defined across municipal borders, and deny to some of those they affect the means to change them. Implicit in this account is a normative claim that I now want to state more explicitly. Boundaries can define relations of identity\difference in ways that are more, or less, democratic. They function more democratically when they sort in ways that are relatively nonhierarchical; when they are amenable to change by those they affect; and when they are permeable, so that the identities and the differences they produce are made present to one another. Boundaries function less democratically when they sort in ways that define relations of privilege and deprivation, power and powerlessness, dominance and marginality; when they are relatively resistant to democratic contestation and change; and when they render difference invisible to identity, creating seemingly unbridgeable distances among interdependent persons and groups.

Democratic theorists concerned with questions of identity\difference need to ask how states create difference-defining boundaries in ways that are antidemocratic in this sense. In the case of the American city, the processes of racial zoning and systematic disinvestment through which the state helped forge the black ghetto were key to racial difference-making through much of the twentieth century. To understand processes of antidemocratic boundary-making in the twenty-first century American city, it is important to attend to the historic devolution of boundary-making and boundary-mapping authority, from federal and state to local bodies. Although the U.S. constitution grants local governments no explicit powers or rights,[34] state and federal legislatures and courts have ceded them significant authority. This abdication, in the wake of state-supported racial ghettoization, enables and encourages the definition of hierarchical and relatively durable and impermeable urban boundaries. Consider, for instance, the shift from early nineteenth century state support for urban annexations of surrounding territory, to twentieth century legislative and judicial enablement of municipal incorporation and support for legal defense against annexation.[35] Consider the authorization by state legislatures of limited purpose governments and interlocal service contracts: arrangements that enable new municipalities on the urban fringe to access physical infrastructure and basic services, while establishing both political and fiscal autonomy.[36] Consider the legal definition of local political participation rights in terms of place of residence.[37] Combined with state grants of authority to localities to engage in exclusionary zoning,[38] to set admission policies for and to fund local public schools,[39] and, more generally, to raise and to spend taxes providing services for residents only, these forms of decentralization enable the formation of majority-white, suburban enclaves, legally defined as distinct municipalities, and empowered to determine policies that profoundly affect ghettoized African-Americans without including them in the relevant decision-making processes.[40]

Democratic theorists concerned with questions of identity\difference need to direct our attention to processes such as these: processes through which states make difference. To understand what we miss when we fail to do so, consider participatory democratic calls for radically decentralizing urban political decision-making, especially common in the 1970s and the 1980s.

[34] Legally, municipalities are delegates of states, their range of political authority and even their borders subject to change by state legislatures (*Hunter v. City of Pittsburgh*, 208 U.S. 161 [1907]). See Ford 1994 and Frug 1999.

[35] Richard Briffault (1990b, 359) traces the gradual liberalization of municipal incorporation law, noting that, although many states limited the right to incorporate to "urban communities," courts generally interpreted "urban community" broadly, so that neither "[t]he lack of a densely populated urban core, [nor] the weakness of . . . internal ties of commerce, production or culture[, nor] the fact that most suburbanites earned their livelihoods by commuting to the central city" disqualified suburban localities. In most states, this legal enablement of the incorporation of independent municipalities was accompanied by new restrictions on annexation. State law gradually secured incorporated municipalities against forcible annexation, which had been the principal route to urban expansion throughout the nineteenth century. By the mid-twentieth century, incorporated suburbs encircled most older cities in the Northeast and the Midwest, cities no longer legally authorized to annex them (Briffault 1990b, 361).

[36] Over the course of the twentieth century, special districts and other limited purpose bodies and interlocal agreements enabled suburban expansion by permitting new municipalities economies of scale in constructing and managing water and sewer systems and transportation and other public facilities. What is more, direct state aid for infrastructure development ensured that metropolitan expansion was not impeded by suburban dependence on cities for basic service facilities. See Briffault 1990b, 375–82.

[37] In *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60 (1978), the U.S. Supreme Court established that the relevant *demos* in local political decisions is local residents, even when decisions taken affect nonresident state citizens. See the discussion in Ford 1994, 1866–68.

[38] In *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926), the Supreme Court upheld zoning regulations that exclude commercial and industrial land uses and multifamily dwellings. In *Village of Arlington Heights v. Metropolitan Housing Development Corp.*, 429 U.S. 252 (1977), it upheld restrictions on multifamily dwellings that have the effect of excluding racial minorities.

[39] In *Milliken v. Bradley*, 418 U.S. 717 (1974), the Supreme Court ruled that school desegregation programs may not exceed district boundaries absent proof that the historic cause of segregation in a district was action by another district or by the state. In *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1 (1973), it upheld local school financing, even when city/suburban fiscal inequalities produce gross interlocal differences in educational resources.

[40] The American state, what is more, has granted significant authority to local private bodies that exercise powers of collective governance. Starting in the early part of the last century with a series of state supreme court rulings that lent public support to private deed restrictions and to the developer-established homeowners associations that enforce them (e.g., *Wehr v. Roland Park Company*, 143 Md. 384 (1923), which upheld restrictive covenants; *Sanborn v. McLean*, 233 Mich. 227 (1925), which affirmed that deed restrictions can be enforced against all owners; and *Neponsit Property Owners' Association, Inc. v. Emigrant Industrial Savings Bank*, 278 N.Y. 248 [1938], which established that homeowners associations can enforce restrictive covenants and tax to maintain common property), the state has enabled the private determination and execution of rules that extend, in some instances, to restrictions on local political gatherings and signage and prohibitions against the distribution of newspapers. See McKenzie 1994.

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These paint a normatively appealing vision of citizens engaged in direct decision-making, actively exercising their political judgment to help shape local decisions that are central to their lives (e.g., Barber 1984, ch. 10; Elkin 1987, ch. 9). But, as critics of decentralization have pointed out (e.g., Frug 1999; Young 1990, ch. 8), because participatory democrats are insufficiently attentive to the structure and the political effects of state boundary-making practices, they propose reforms that would have the perverse effect of exacerbating power inequalities among municipalities. Local control in the context of spatial segmentation and social segregation empowers the privileged to make decisions (local land use decisions, for instance) that significantly affect people excluded from the processes by which they are determined.

Given the democratic shortcomings of plans to decentralize urban decision-making authority, one might think it logical to turn instead to (re)centralization. Centralized state bodies, after all—unlike local governments, which are constrained to compete for scarce business capital and middle-class and professional residents (Peterson 1981)—have the capacity to plan both rationally and equitably. Hence some proponents of regionalization advocate shifting land use decisions, investment planning, law-making, public service provision, and/or taxation to regional or state legislatures and administrative bodies (e.g., Rusk 1993 and 1999). For similar reasons, some—inspired by the *Mount Laurel* decisions in New Jersey[41]—turn to the court as a potentially powerful progressive force (e.g., Haar 1996).

But attentiveness to the historical record of centralized legislative and judicial bodies in the United States should dampen our enthusiasm for this intuitively appealing solution. As detailed above, at least since the early twentieth century, centralized state legislative and administrative bodies have played an active role in constructing and maintaining city boundaries that undermine, rather than promote, democratic engagement with difference. One nontrivial reason for this pattern is that many powerful private interests influence centralized state actors. The lobby for what eventually became the Interstate Highway Act of 1956, for instance (at that time the nation's second largest lobby), included local homebuilders associations, automobile dealers, banks, labor unions, and the construction industries. Its top contributor was General Motors (Jackson 1985, 248–51).

Similarly, although the *Mount Laurel* decisions pose a significant challenge to anti-democratic boundaries, these are the exception, rather than the rule. State and federal courts have played an historic role in promoting local autonomy in the context of both urban racial ghettoization and gross disparities in urban compared with suburban political and fiscal capacity. Tellingly, more than a quarter-century after the first *Mount Laurel* case, neither this landmark decision nor the legislation it helped inspire has been replicated by other states or by the federal government.[42]

Thus, the decentralization of political authority to localities—the solution that has been a staple of postwar participatory democratic thinking—is likely to exacerbate power inequalities in the fragmented and the socially segmented metropolis. At the same time, the most readily apparent alternative, the recentralization of key urban governance functions to the metropolitan, regional, or state level, will not necessarily perform better, judged by democratic criteria. How can the state make difference differently?

The account sketched above suggests that, although the centralization of some planning, fiscal, and service-provision functions is (as argued by proponents of regionalization) key to any plausibly democratic approach, it is crucial to search, as well, for ways to democratize the processes through which the state makes and maps difference-defining boundaries. If the definition of the urban *demos* in terms of place of residence enables the political silencing and the exclusion of nonresidents who are significantly affected by decisions taken within a municipality, then it is important to develop alternative ways to define the *demos*. If nonpublic actors and democratically unaccountable special purpose governments perform significant difference-making functions, then it is important to develop mechanisms for subjecting these to democratic control or, alternatively, for transferring their authority to accountable public agents. If status quo definitions of municipal and other political borders help to reify and to indurate hierarchical definitions of identity\difference, then it is important to consider ways in which these might be opened to democratic challenge and change.

Some political theorists—perhaps most notably Iris Young (1990, ch. 8; 2000, ch. 6) and Susan Bickford (1999, 2000)—have begun promising work thinking about these sorts of reforms. To my knowledge, however, the most sustained theorizing along these lines has been done by legal scholars. Gerald Frug (1999, ch. 4), for instance, proposes a regional legislature comprised of democratically elected municipal representatives who are empowered to determine the scope of authority of local government. Legislators, he suggests, should be elected not only by residents of the localities that they represent, but by all citizens who opt to cast a vote in their local elections. Drawing on

[41] *Southern Burlington County NAACP v. Township of Mt. Laurel*, 336 A 2d 713 (NJ), cert. denied, 423 U.S. 808 (1975), or "*Mt. Laurel I*"; *Southern Burlington County NAACP v. Township of Mt. Laurel*, 456 A 2d 390 (NJ 1983), or "*Mt. Laurel II*"; *Hills Dev. Co. v. Bernards Township*, 510 A 2d 621 (NJ 1986), or "Mt. Laurel III." Together with the 1985 New Jersey Fair Housing Act, these decisions proscribe local zoning laws that exclude affordable housing. In the landmark *Mt. Laurel I*, the court interpreted New Jersey's constitutional and statutory principle that governance at the local level must serve the "general welfare" to imply a "presumptive obligation . . . for each . . . municipality affirmatively to plan and provide, by its land use regulations, the reasonable opportunity for an appropriate variety and choice of housing including of course low and moderate cost housing, to meet the needs, desires, and resources of all categories of people who may desire to live within its boundaries" (*Mt. Laurel I*, 336 A 2d at 728).

[42] For a detailed and persuasive critique of regionalization as a solution to political problems facing cities and their suburbs, see Frug 2002.

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institutional innovations developed in the European Union, Frug (2002) makes the case that this legislature should adopt qualified majority voting (to ensure that all cities are represented and population is taken into account, without enabling the domination of decision-making by one or a few large municipalities); party representation (to encourage alliance-formation across municipal borders); and project-based redistributive programs analogous to the EU's structural funds (to broaden political support for redistribution, to encourage the articulation of needs in ways that educate others about them, and to foster cross-border alliances). Thinking along similar lines, Richard Ford (1994, 1996) makes the case for opening all local elections to all citizens in a metropolitan region or state, regardless of place of residence, and simultaneously introducing a cumulative voting scheme.[43] He recommends, as well, regular referenda (decided, again, by cumulative voting) to determine changes to local municipal boundaries (Ford 1994, 1911–13). And he proposes the democratization of all public and nonpublic bodies that make and enforce quasi-governmental regulations and rules.

Although a detailed analysis of these proposals is beyond the scope of this essay, it seems that one important strength of both Frug's and Ford's approaches is that they challenge local political autonomy without appealing to the *ignis fatuus* of a centralized state actor who can be relied upon to champion the cause of the disempowered. Both acknowledge, further, that people are affected by decisions taken not only within, but also across the borders of the municipalities in which they reside. Thus, Ford's recommendation that we detach our definition of the urban *demos* from place of residence would enable citizens to cast votes, not only in the local elections of the cities in which they live, but also in local elections of those municipalities where they work or shop, or perhaps those where they would like to live or work or shop, but cannot, due to exclusionary zoning. It would enable citizens to participate in elections in whichever localities they experience as significantly affecting their lives, in Ford's (1994, 1909) words "effectively draw[ing] their own jurisdictional boundaries [by] decid[ing] which local governments were most important to them and allocat[ing] their votes accordingly."

The political status quo encourages citizens to conceive their political interests as tied to the places where they live: places that the state has had an active hand in helping racialize. For the privileged, it enables an understanding of political needs in terms of keeping "their" problems outside "our" borders. Ford's proposal, in contrast, would encourage citizens to understand borders themselves as the product of ongoing and revisable political decisions. Both his approach and Frug's have the advantage of encouraging people to understand their own political needs and interests—as well as those of others—as crossing political borders, perhaps changing from election to election. What is more, Frug's highlights the importance of structuring both competition for political office and legislative and other decision-making processes in ways that promote coalition-building and alliances across extant political borders.

In citing these proposals, I do not mean to endorse them unequivocally. Absent practical experiments involving these types of reform, it is difficult to predict what their effects would be. As Richard Briffault (1996) has argued, powerful suburban interests might dominate Frug's proposed legislature, rendering it a relatively ineffective vehicle for challenging important difference-defining boundaries, such as zoning laws. Similarly, to allow voting across borders might reinforce the advantage of powerful suburban actors, whom Briffault argues would be better positioned than urban voters to form coalitions in order to influence particular elections. In his own elaboration of proposals for change, Briffault is more centralist than either Ford or Frug and, also, more focused on egalitarian outcomes, as opposed to democratic processes. He argues not only for removing land use, fiscal, and infrastructural decisions to the regional level, but also for redrawing municipal boundaries periodically (much as boundaries defining congressional districts are redrawn), with a view to promoting a rough interlocal parity in fiscal capacity.

There are at least two difficulties with this proposal, however. First, for the reasons outlined above, there seems little reason to think that centralized state agencies would enact it. Second, even if they did, there is little reason to think citizens would view the change as legitimate, unless they already were of the view that municipal fiscal equality is an important political aim. In terms of Briffault's critique of Frug and Ford, it seems likely that he overestimates the extent to which suburban voters share an essentially fixed set of political preferences. No doubt some people who live in particular suburbs of particular cities experience their interests as competing, even conflicting with those of other suburban residents. No doubt, more *could* if political coalitions were constructed in ways that cut across extant urban/suburban divides. One valuable contribution Briffault's critique does make, however, is that it helps highlight the importance of structuring electoral incentives and collective decision-making processes so that political elites are encouraged both to frame and to address problems in ways that cross extant lines of social difference.[44] Whether Frug's specific proposals for project-based programs and party representation are best suited to this task remains to be seen. But

[43] The basic idea behind cumulative voting is that voters are given multiple votes, which they can distribute as they choose, in order to reflect the intensity of their preferences. Suppose, for example, that in a given metropolitan region there are 10 local elections. If each voter were allocated 10 votes, some might choose to cast one vote in each election, while others might choose to cast five votes in each of two elections, and still others might opt to cast all 10 in a single election. On cumulative voting generally, and especially on the advantages it offers numerical minorities, see Guinier 1994.

[44] On the role of elites in mobilizing understandings of identity and difference for political gain, and on institutional approaches to structuring incentives so that they do so in democracy-enhancing ways, see Shapiro 2003, ch. 4.

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their basic aim—defining political incentives for actors to mobilize support in ways that unsettle, rather than indurate social definitions of difference—is sound.

CONCLUSION

I draw attention to these proposals, even absent certainty about the outcomes they would engender, because I want to highlight what seems to me a promising and an underexplored direction for political change. I have argued that the American state maps racial identities and differences, that it helps localize collective problems along the lines of racialized boundaries, and that it actively works to limit political engagement across these difference-defining lines. An adequate democratic response requires, not simply tolerating, recognizing, or deliberating across extant forms of difference, but working to change the processes through which difference-defining boundaries are made and remade. As the discussion above suggests, this approach may be incompatible with some of the reactive responses considered in the first sections of this essay. Efforts to institutionalize group veto power and group representation rights, for instance, stand in tension with the goal of rendering more fluid and more democratically responsive the legal and other boundaries that define "oppressed [racial] groups." But making difference differently may work productively in tandem with other reactive responses. Deliberation, for instance, seems a likely companion to the forms of cross-boundary coalition-building that Frug recommends.

Nonetheless, the basic challenge remains making difference differently, not simply responding to difference once it has been made. This focus has the advantage over purely reactive strategies of drawing our critical attention, as well as our institutional imagination, to the role the state plays in helping shape the processes though which social actors define and redefine relations of identity\difference.

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